SUPREME COURT OF THE UNITED STATES

EARNEST WILSON *v.* ILLINOIS

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

No. 88-5315. Decided October 11, 1988

The petition for a writ of certiorari is denied.

JUSTICE MARSHALL, with whom JUSTICE BRENNAN joins, dissenting.

For the reasons stated in *Lego* v. *Illinois*, *post*, at p. ——, (MARSHALL, J., dissenting), I would grant the petition in order to resolve the question whether a state court, when recognizing a new federal constitutional rule of criminal procedure, is bound by the retroactivity principles fashioned by this Court, and if so, whether the principle of retroactivity announced in *Griffith* v. *Kentucky*, 479 U. S. 314 (1987), applies to a state court decision recognizing such a rule, notwithstanding the state court's pre-*Griffith* determination that, under the retroactivity decisions of this Court then in force, the new rule would be given prospective application only. I dissent.